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Attorney Docket No. CCI-010CN

REMARKS

Claims 1, 49, 51, and 53-75 are pending in the application. Claims 47, 48, 50 and 52 have been canceled. Claims 1, 53, 58 and 62-71 have been amended, and new claims 72-75 have been added. Support for these amendments can be found throughout the specification and claims as originally filed. No new matter has been added.

The claim amendments requested herein should in no way be construed as acquiescence to any of the rejections and have been made solely to expedite prosecution of the application. Applicants reserve the right to pursue the claims as originally filed and/or prior to amendment herein in this or a separate application(s).

Applicants gratefully thank the Examiner for the courtesy of the in-person interview held on June 25, 2003 with the undersigned, during which the outstanding rejections of record were discussed. In particular, as noted on the Interview Summary, draft claim amendments were discussed with respect to the rejections under 35 U.S.C. §112 for written description and enablement. Accordingly, a detailed description of the support for the claims as amended is included herein.

Objection to the Specification

The specification was objected to for stating that the instant application is a divisional of application 09/438,460, on the ground that the instant claims in both applications are drawn to carrier peptides.

The specification has been amended to specify that the instant application is a continuation application. Accordingly, withdrawal of the objection is respectfully requested.

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Claim Rejections under 35 U.S.C. § 112, second paragraph

Claims 47, 50, 53, 54 and 60-66 were rejected as being indefinite.

With regard to claim 52, the Office Action states that it is unclear that how the recitation of the assignment of amino acids in the claim further defines any of claims 47 and 49-51. Similarly, with regard to claim 50, the Office Action states that it is unclear how the recitation of the phrase "basic for basic" further defines claim 49 which incorporates the specific limitation of "homologous replacement." Indeed, at page 6, line 29 to page 7, line 2, the definitions of homologous and non-homologous are presented, and are in agreement with the art recognized meanings of these terms. Accordingly, claims 50 and 52 have been canceled, rendering these rejections moot.

Claims 47, 54, 61, 64 and 65 were rejected as indefinite on the ground that it is unclear whether the term "reversed" refers to the linkage of the amino acid to the peptide backbone, or if the reversal refers to the position of the amino acid within the amino acid sequence. This rejection has been met by the amendment of the claims to specify that "the order" of the amino acids in the peptide has been reversed.

Claims 60-66 were rejected on the ground that it is unclear what positions 1-6 refer to. Claims 60-66 have now been amended to specify that these positions refer to the positions of amino acids set forth in SEQ ID NO:2. Accordingly, withdrawal of this rejection is respectfully requested.

Claim Rejections under 35 U.S.C. §112, first paragraph

Claims 1, 47 and 49-66 have been rejected on the ground that the claims refer to "variants," and that the type of translocation is not defined as part of the limitation of variant.

Applicants respectfully traverse this rejection. The claims have now been amended to specify the types of variants that Applicants view as within the scope of the claimed invention (see claim 1). Moreover, as discussed with the Examiner during the in-person interview, the claims specify that the claimed peptide has the ability to translocate a membrane, *i.e.*, a cell membrane. The specification provides numerous

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examples of peptides within the scope of the instant claims (e.g., at page 8, lines 1-16) Whether or not any particular peptide also has the ability to translocate from one intracellular organelle to another is, thus, not relevant to the enablement of the claimed invention. In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claim Rejections under 35 U.S.C. §102

Claims 1, 47, 49-52 and 60-66 have been rejected as being anticipated by Chassaing et al. (WO 97/12912). Claims 1, 47, 49-53, 59 and 60 have been rejected as being anticipated by Nadler et al. (U.S. 5,877,282).

Applicants traverse these rejections. The cited references disclose peptides of 16 or more amino acids in length that translocate across the cell membrane. However, neither reference anticipates the claimed invention which is directed to a "peptide consisting of RRMKWKK (SEQ ID NO:2)", or variants of this peptide as specified by the claims. Accordingly, withdrawal of this rejection is respectfully requested.

Double Patenting Rejection

Claims 1, 47 and 49-66 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9, 11-18 and 45 of copending Application No. 09/438,460.

As discussed in the interview of June 25, 2003, terminal disclaimer for Application No. 09/438,460 and U.S. Patent 6,472,508B1 will be submitted upon an indication of allowable subject matter.

SUMMARY

In view of the remarks set forth above, it is respectfully submitted that this application is in condition for allowance. If there are any remaining issues or the Examiner believes that a telephone conversation with Applicants' attorney would

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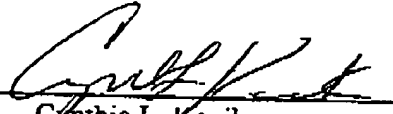
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expedite the prosecution of the above-identified application, the examiner is urged to call Applicant's attorney at (617) 227-7400.

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